

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

TELDIA HAYWOOD, ROBERT HAYWOOD,
JOANNA BOWLING, RUSSELL ROBERSON,
and CAROLYN EDWARDS,

Plaintiffs,

v.

CIVIL ACTION NO. 1:19-00264

CARETTA MINERALS, LLC,
CNX GAS COMPANY LLC, and
UNKNOWN DEFENDANTS,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court is plaintiffs' failure to comply with court orders, (see ECF Nos. 30, 32), as well as defendants' Joint Motion for Entry of Judgment Order Dismissing Certain Plaintiffs' Claims, With Prejudice. (ECF No. 33.)

Pursuant to the court's memorandum opinion and order issued on March 30, 2020, (ECF No. 30), the court dismissed plaintiffs' Complaint without prejudice, allowing plaintiffs to file an amended complaint within 14 days of the issuance of that order. In that order, the court stated that if no proposed amended complaint was filed by that April 13, 2020 deadline, the court would issue a judgment order dismissing the case with prejudice. (Id.) No amended complaint was filed by the deadline.

On April 9, 2020, the court received a letter-form motion from plaintiff Teldia Haywood. (ECF No. 31.) In the letter, Ms. Haywood claimed that she needed to find new representation in this matter, as plaintiffs' counsel Robert Carlton told plaintiffs that he was unable to continue representing them due to his poor health. (See id. at 5.) Ms. Haywood asked the court to grant her more time to find new representation and file an amended complaint. (Id.)

Because the court had not received any motion to withdraw from Mr. Carlton, on April 21, 2020, this court issued a second memorandum opinion and order in which it directed Mr. Carlton to respond by May 5, 2020 to Ms. Haywood's letter-form motion and to apprise the court whether or not he intended to file a motion to withdraw as plaintiffs' counsel. (ECF No. 32.) The court also stated it would consider any motions made by counsel for defendants regarding whether the court should dismiss this case with prejudice given plaintiffs' counsel's failure to file an amended complaint by the April 13, 2020 deadline. (Id.) The court thus ruled that, at that time, it would hold in abeyance Ms. Haywood's motion for extension of time, and would hold in abeyance any issuance of a dismissal with prejudice pursuant to the court's March 30, 2020 order. (Id.)

On April 29, 2020, defendants filed a Joint Motion for Entry of Judgment Order Dismissing Certain Plaintiffs' Claims, With Prejudice. (ECF No. 33.)

The court is faced with the difficult and unusual situation where plaintiffs' counsel, Robert Carlton, has not been responsive to the court's orders. As a result, there are several unresolved issues pending before the court. To address these issues, the court hereby **ORDERS** a hearing to be set in Bluefield at 11:00 a.m. on June 23, 2020.¹ The court **DIRECTS** Robert Carlton to be present at this hearing, unless before that date he files a motion to withdraw and the court grants that motion for good cause shown. If Mr. Carlton fails to appear without leave of court, the court warns that it will issue sanctions upon him. Plaintiffs may retain another attorney prior to this hearing date, even if Mr. Carlton does not file a motion to withdraw. Any new attorney retained by plaintiffs must file a notice of appearance on behalf of the plaintiffs that he or she is representing, and should be present at the hearing and be prepared to make argument on the effect of plaintiffs' failure to comply with court orders and on defendants' motion.


¹ Though the court wishes to resolve this matter swiftly, due to the COVID-19 pandemic the court finds that a June 23, 2020 hearing is the soonest appropriate date to hold the hearing.

The court additionally hereby **ORDERS** that the dates in the scheduling order, (ECF No. 18), are hereby **CONTINUED GENERALLY** pending resolution of the issues to be addressed at the hearing. If the case is not dismissed following the hearing, the court will schedule a status conference at or after which it will issue a new scheduling order.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record and to Ms. Haywood. The Clerk is further directed, when able to do so, to mail a copy of this Memorandum Opinion and Order to Mr. Carlton via certified mail, return receipt requested.

IT IS SO ORDERED this 7th day of May, 2020.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge